

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

DAVID DANIEL NORRIS, II,

Plaintiff,

v.

CIVIL ACTION NO. 3:08-1163

WEST VIRGINIA DIVISION OF CORRECTIONS,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable [Maurice G. Taylor, Jr./ Mary E. Stanley/ R. Clarke VanDervort], United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court dismiss Plaintiff's Complaint with prejudice as moot and deny Plaintiff's Application to Proceed Without Prepayment of Fees or Costs, pursuant to 28 U.S.C. §1915(e)(2)(B). Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DISMISSES** Plaintiff's Complaint with prejudice as moot and **DENIES** Plaintiff's Application to Proceed Without Prepayment of Fees or Costs pursuant to 28 U.S.C. §1915(e)(2)(B) consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: April 19, 2011

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE